

# ALSTON & BIRD

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## VIA ECF

December 15, 2023

Honorable Madeline Cox Arleo  
United States District Court Judge  
United States District Court for the District of New Jersey  
Martin Luther King Jr. Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07102

Re: *In re American Medical Collection Agency, Inc. Customer Data Security Breach Litigation*, No. 19-md-2904(MCA)(MAH), **Quest/Optum Track**

Dear Judge Arleo:

Counsel for Defendant Quest Diagnostics Incorporated (“Quest”), and Defendant Optum360, LLC (“Optum”) in the above-referenced matter submit this letter motion (the “Motion”) regarding the Court’s September 21, 2023 Letter Order (“Letter Order”) granting in part and denying in part Quest and Optum’s Motions to Dismiss the First Amended Consolidated Class Action Complaint (“Motions to Dismiss”). (Dkt. No. 578).

On January 31, 2023, Plaintiffs Karen Copeland, Ann Davis, Matthew DiFonzo, and Lisa Taylor each filed a Notice of Voluntary Dismissal, whereby they voluntarily dismissed their claims against Defendants Quest and Optum. (Dkt. Nos. 458, 459, 460, 461). In February 2023, the Court entered orders dismissing each of those Plaintiffs. (Dkt. Nos. 464, 465, 466, 467).

However, in the Court’s Letter Order, it appears that the Court inadvertently addressed the claims of the dismissed Plaintiffs listed above. (Dkt. No. 578 at 2 n.4 (identifying Ann Davis as a Plaintiff whose negligence and negligence per se claims were permitted to proceed because she was previously placed in Group I); *id.* at 3-4 n.10 (identifying Karen Copeland, Matthew DiFonzo, and Lisa Taylor as now in Group II); *see also* Dkt. 482 (explaining how the dismissals narrowed the issues before the Court in connection with the pending motions to dismiss)). Defendants respectfully request that the Court amend the Letter Order to clarify that the claims of Plaintiffs Karen Copeland, Ann Davis, Matthew DiFonzo, and Lisa Taylor have been dismissed and may not proceed. A proposed order is attached.

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Counsel for Plaintiff refuses to sign a stipulation as to the subject of this Motion and proposed order. Consequently, Defendants must move the Court to amend the September 21, 2023 Letter Order in accordance with the above. Defendants thank the Court for its attention to this issue.

Respectfully Submitted,

**ALSTON & BIRD LLP**  
*Counsel for Defendant Optum360, LLC*

By: /s/ Reade Seligmann  
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**SIDLEY AUSTIN LLP**  
*Counsel for Defendant Quest Diagnostics  
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By: /s/ Heather Benzmilller Sultanian  
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